

**IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

VFS LEASING CO.,)
Plaintiff,) Case No. 2:10-cv-0055
v.)
K&K TRUCKING, INC.; DONNY W. KEMP)
aka DONNY WAYNE KEMP; J.E.A.)
LEASING, LLC,)
Defendants.)

DENIAL OF ENTRY OF DEFAULT

Pending is Plaintiff's Request to Enter Default against Defendant Donny W. Kemp (Docket Entry No. 20). The Clerk previously denied entry of default against this Defendant as Plaintiff did not provide an Affidavit of Military Service. The Plaintiff has now filed a Declaration (Docket Entry No. 21) stating that Defendant Kemp is not in military service; however the Declaration is inadequate to establish the defendant's military status. As stated in the Clerk's previous denial of default against Mr. Kemp (Docket Entry No.18):

“The Act requires that affidavits be submitted that “state whether or not the Defendant is in military service and **showing facts necessary to support the affidavit**” (emphasis added).”

The sworn statement provided by Plaintiff contains only an assertion that Mr. Kemp is not in the military service. No facts are provided to support that conclusion. Plaintiff is referred back to the Clerk's previous denial for information on facts necessary to document military status. Accordingly,

for the reasons stated above, the Clerk declines to enter default against Defendant Donny W. Kemp at this time. Plaintiff may file a renewed request for entry of default against Defendant Kemp when a proper affidavit of military service has been provided.

s/ Keith Throckmorton

Keith Throckmorton
Clerk of Court